

DAHL MEMORIAL CLINIC PROVIDER EMPLOYMENT AGREEMENT

This Employment Agreement dated April 28th, 2022 is between Johanna Huff (“Provider”) and the Dahl Memorial Clinic, a division of the Municipality of Skagway, Alaska (“Clinic”).

WITNESSETH:

WHEREAS, the Clinic is willing to employ Provider to serve as a Family Nurse Practitioner at the Clinic; and
WHEREAS, Provider wishes to be employed by the Clinic, subject to the terms and conditions of this Agreement.

NOW, THEREFORE, the parties agree as follows:

1) EMPLOYMENT

- A) The Clinic extends this offer of employment to Provider as a Family Nurse Practitioner at the Clinic. Provider accepts employment, subject to the terms and conditions set forth in this Agreement.
- B) Provider shall perform the duties and responsibilities listed in this Agreement and in the Job Description, which is attached hereto and made a part hereof, and such other duties and responsibilities as may be assigned Provider from time to time by the Clinic Executive Director or his/her designee. Provider shall be prohibited, without prior written consent of the Clinic, from performing such duties and responsibilities at any other health care facility or organization during the Term of this Agreement.
- C) Provider shall be subject to the direction of the Executive Director and Medical Director for Dahl Memorial Clinic for all clinical and administrative matters in the proper discharge of Provider’s duties and responsibilities.
- D) Provider shall devote sufficient time and effort to the proper performance of Provider’s duties and responsibilities under this Agreement. Such time and effort shall include no less than (40) hours employment per week as a Family Nurse Practitioner, documented routine absences excepted. On call duties shall be shared with other Provider(s). Performance of such duties shall be in accordance with recognized and accepted standards, the policies and procedures of the Clinic, any By-Laws and Rules and Regulations of the Clinic’s Medical Staff, requirements of other entities which accredit, regulate or license the Clinic and its programs, and all applicable federal, state and local laws and regulations. Provider shall not knowingly or intentionally engage in any activity, which would cause the Clinic to lose its licensure, accreditation, or participation in the Medicare and Medicaid programs, or would be detrimental to the Clinic.
- E) Provider shall conscientiously, diligently, in good faith, and to the best of Provider’s ability, experience and talents perform all the duties and responsibilities required of Provider pursuant to the express terms hereof to the reasonable satisfaction of the Clinic. Provider further agrees to faithfully observe the Provider terms of this Agreement.
- F) Provider shall be licensed to practice medicine in Alaska and shall maintain, on a current and unrestricted basis:
 - 1. Licensure as applicable by the State of Alaska;
 - 2. Qualification as a provider under Medicare, Medicaid or any other government-funded healthcare program;
 - 3. U.S. Drug Enforcement Administration (DEA) number without material restrictions.

- G) Provider's clinical privileges at the Clinic shall terminate automatically upon termination of this Agreement or for any of the reasons specified in Section 3 (b), i) thru viii) of this Agreement.
- H) Provider agrees to provide services consistent with the standards of practice among members of the same health care profession with similar training and experience situated in the same or similar communities. Provider agrees to perform such acts as set forth by the Board of Directors of the Clinic.
- I) Provider shall provide the highest quality professional services to Clinic patients at any time upon request by a member of the Clinic Medical Staff. Provider shall be prohibited from engaging in the private and public practice of medicine within the Skagway Municipal Boundaries other than that specified under the terms of this Agreement with the Dahl Memorial Clinic during the term of this agreement. Any medical services not directly related to Dahl Memorial Clinic provided by Provider will not be connected in any way to the Municipality of Skagway or the Dahl Memorial Clinic. Provider will in no way represent that they are working on behalf of the Dahl Memorial Clinic or the Municipality of Skagway when providing private medical services outside the Skagway Municipal Boundaries. Provider understands and agrees that Dahl Memorial Clinic and the Municipality of Skagway shall not provide any insurance coverage for any provisions for any private services by provider other than in the performance of his/her duties directly related to Dahl Memorial Clinic. A covered individual may follow a covered entities patient to a local non-health center site in order to maintain continuity of care, if the service provided at the non-health center site is within the covered entity's scope of project and the covered individual's scope of employment for the purpose of FTCA coverage. Provider assigns to Clinic all rights and title to all revenues generated by Provider with respect to patients of Clinic. Clinic shall have the exclusive right to bill and collect for Provider services for such patients. Provider will not bill or collect individually for services performed with respect to such patients.
- J) Provider shall maintain in legible form medical chart and records and provide the Clinic in a timely manner all medical information under the Provider's control necessary for it to render bills to patients for Clinic services and to effect applicable third-party reimbursement. This provision constitutes a material provision of this Agreement.
- K) Provider shall participate in the Quality Assurance, Risk Management, and Infection Control programs and procedures of the Clinic, and shall cooperate and assist with all accreditation and licensure surveys and reviews, including preparation of reports and documentation.
- L) Provider shall comply with the Equal Employment Opportunity Policy, the Policy against Harassment, the Employee Conduct policy, and the Drug Free Workplace Notification Policy set out in the Municipality of Skagway Personnel Policy Manual.
- M) Provider acknowledges and understands that the Discipline Sections and Grievance Sections of the Skagway Personnel Policy Manual do not apply to the Provider.
- N) Provider shall comply with all federal, state, local and clinic COVID-19 mandates and protocols, including but not limited to, any Vaccine Mandate policy adopted and implemented by the Clinic and Clinic Board in accordance with federal laws and regulations.

2) **TERMS**

- A) Term of this Agreement shall be a one-year period commencing on [June 1st, 2022](#) through May 31, [2023](#) (hereinafter the "Expiration Date"). This Agreement shall terminate automatically at the end of the term unless the parties agree in writing to extend the Agreement for additional terms. Notwithstanding this provision, this Agreement may be terminated as provided in Article 3 of this Agreement.

- B) Provider understands that no Assembly member, Municipal employee, Clinic Board Member, or Clinic employee or consultant has any actual or apparent authority or authorization to make any oral promises or guarantees to the Provider, nor any actual or apparent authority or authorization to modify this agreement in any respect, nor any actual or apparent authority to extend this agreement orally. Provider acknowledges and understands that only the Municipality of Skagway Municipal Mayor is authorized to approve this agreement, authorize any modifications of the Agreement, or to authorize any extension of this Agreement.

3) **TERMINATION**

- A) This Agreement shall run for the Term unless terminated earlier as provided herein.
- B) **Automatic Termination.** This Agreement shall terminate automatically upon the occurrence of any of following events:
1. Mental or physical disability of Provider for any reason that renders Provider unable to effectively perform his responsibilities under this Agreement;
 2. Suspension or revocation of Provider's practicing license by final action of the Alaska State Nursing Board;
 3. Conviction of Provider of a felony or any other illegal conduct determined by the Clinic to be potentially detrimental to the business or reputation of the Clinic, in the Clinic's sole discretion;
 4. If Provider engages in misconduct related to the care of patients, or not in keeping with the standard of care of patients, in the sole discretion of the Clinic;
 5. Any conduct, action or omission that potentially exposes the Clinic to investigation and/or penalties related to Medicare or Medicaid reimbursements;
 6. Violation of any HIPAA related laws or regulations;
 7. Death of Provider;
 8. Upon any change in the funding of the Clinic, or loss of funding of the Clinic. Provider acknowledges and agrees that the Municipality has no obligation to operate the Clinic or provide any funding to the Clinic, and the Municipality may choose to not fund the Clinic at any time at its sole discretion.
- C) **Termination for Cause**
1. Mental or physical disability of Provider for any reason that renders Provider unable to effectively perform his/her responsibilities under this Agreement for more than ninety (90) continuous days in a twelve (12) month period;
 2. Provider's license to practice medicine in Alaska is suspended, revoked, canceled or limited;
 3. Conviction of Provider of a felony or any other illegal conduct substantially detrimental to the business or reputation of the Clinic;
 4. The malpractice insurance provided in Section 6, Insurance, of this Agreement becomes unobtainable due to acts or conduct of the Provider;
 5. Provider is convicted of violating a statute or law of the State of Alaska, another state or the United States, which statute or law relates to the practice of medicine.

6. If Provider commits a material breach of any of the terms or conditions of this Agreement and fails to correct such breach within ten (10) days after written notice thereof from the Clinic, the Clinic may, at its own option, terminate this Agreement for cause immediately, or at any designated future time provided that the breach still exists, by delivering to Provider a written notice of termination which may be made effective immediately.

D) Other Termination

1. This Agreement may be terminated at any time upon the mutual consent of the parties.
 2. Employment of Provider is “At Will” with Clinic, and Clinic may terminate at any time without cause. Provider acknowledges and agrees that she has no expectation of any extension of this contract nor any expectation that she will be offered a new contract. Provider acknowledges and agrees that any extension of the contract or a new contract is solely in the discretion of the Clinic and Municipality.
 3. This Agreement may be terminated by either party by giving written notice of not less than ninety (90) days.
- E) All obligations of the Clinic under this Agreement shall terminate immediately upon termination of this Agreement.
- F) Provider hereby expressly agrees and understands that Provider’s obligations not to disclose confidential information as set forth in Article 7 of this Agreement shall continue in full force and effect, notwithstanding termination of this Agreement.

4) COMPENSATION

- A) Salary: The Clinic shall pay and the Provider shall accept in payment for Provider’s services hereunder, compensation at a rate of one hundred forty-two thousand, one hundred and seventy dollars and no/cents (\$142,170.00) payable in equal bi-monthly installments on the Municipality’s regular paydays.
- B) Evaluation: Renewal of this agreement may be considered upon positive performance evaluation by the Medical Director and Executive Director 93 months from the commencement of this contract or by March 1, 2023. Provider understands and acknowledges that there is no right to a renewal even if there is a positive performance evaluation, and acknowledges and agrees that any renewal is in the sole discretion of the Clinic and Municipality.
- C) Fair Labor Standards Act: Provider acknowledges that the Provider position is exempt from overtime requirements. The Provider understands and agrees that she is exempt under Fair Labor Standards Act (FLSA) and that she is not entitled to any overtime in such circumstances. The provisions of the Alaska Wage and Hour Act, 23.10.010 et seq., do not apply to the employment of this position. AS23.10.060 (d) (12).
- D) Additional Pay: Provider shall be compensated \$100.00 (One hundred Dollars & No/100) per day for Critical Care Service transports. When a provider is needed to escort a critical patient to an admitting facility for the purpose of monitoring and treatment the Provider will be reimbursed for that time at the rate of the above mentioned. This will be a onetime flat fee for this service or for acting as Sole Provider for the Clinic, as sole provider cares for all emergent and/or non-emergent patients and covers call 24-7. The Provider will be paid at the above-mentioned rate for each day they act as sole provider Sunday – Saturday. All transport and critical care travel must have the approval of the Clinic Executive Director.
- E) On Call Pay: Provider will be compensated \$7.75 for each one-hour shift that they are required

to be “on call” and an additional \$50.00 per patient that is seen on an emergency after hours basis. This will be clearly recorded on time sheets on the day of the occurrence and paid during the appropriate time period. If an on-call day falls on a municipal holiday, Provider will receive a regular work-day off within the same pay period as agreed upon with the Clinic Executive Director. On Call Pay shall not apply to any regular work schedule, regardless of the length of the work schedule, for which Provider is compensated pursuant to 4A and 4C above.

5) **BENEFITS**

- A) Municipality of Skagway Benefits Program. Provider shall not be entitled to participate in the Employee Benefits Program of the Municipality, except as specified in this Agreement.
- B) Municipal Benefits Provided Provider shall be entitled to the following Municipal Benefits: Medical/Dental Plan, Optional Life Insurance, (PERS) Public Employees Retirement System, (ICMA) International City Management Association Retirement Plan and Flexible Spending Plan for pre-tax medical spending deductions. These benefits are subject to change upon direction of the Skagway Municipal Assembly.
- C) Vacation Time. Provider shall be entitled to thirty (30) hours vacation time, accrued up front at time of contract signing. An additional thirty (30) hours of vacation time shall be accrued three (3) months from the time of the signing of the contract after positive review. At no time will it be allowed for a Provider to take more than four (4) weeks of vacation at one continuous time.
1. If contract term is longer than one year, Provider shall be entitled to three (3) weeks (120 hours) vacation time on each annual anniversary of the date of the signed contract and an additional three (3) weeks (120 hours) of vacation time six (6) months from the anniversary date of the signed contract. This shall apply for each year of the contract until the term of the contract expires.
 2. Unused vacation accrual time shall carry over to a new anniversary year during existing contract terms but shall not exceed 2-years (480 hours) of accrual time on the first day of the anniversary year. If Provider enters into a new contract, any unused vacation hours will carry forward into a new contract but may not exceed 2-years (480-hours) of accrual time. If Provider does not enter into a new contract, Provider will be paid for unused accrued vacation time based on total years of service with the Dahl Memorial Clinic as follows:
 - **One year of services** - Actual unused accrued vacation hours not to exceed 120 hours.
 - **Two-years of services** – Actual unused accrued vacation hours not to exceed 240 hours.
 - **Two to five years of services** – Actual unused accrued vacation hours not to exceed 336 hours.
 - **Five to ten years of services** – Actual unused accrued vacation hours not to exceed 384 hours.
 - **Ten or more years of services** – Actual unused accrued vacation hours not to exceed 480 hours.
 3. If contract is terminated by either party before the expiration date of a contract, Provider will be paid out for any unused accrued vacation time accumulated on a pro-rated month to month basis for time worked up to the point of the last day of work (20 hours vacation accrual per month) based on the years of service schedule listed above.

D) Sick Leave: Provider shall accrue sick leave at the rate of 10 hours per month for each full month worked for the term of the contract, but accrual hours will at no time exceed 360 hours (45 days). Upon expiration or termination of the contract, Provider loses all rights to any accrued sick leave. Sick leave can be carried forward into a new contract or with an extension of an original contract.

1. Provider must notify the Clinic Executive Director regarding the reasons for their absence. Sick leave will be allowed in the follow circumstances:
 - a. Personal illness or physical incapacity.
 - b. Forced quarantine of the Provider in accordance with State or Community Health Regulations.
 - c. Medical or Dental appointments.
 - d. Inpatient or outpatient treatment or counseling for mental or emotional problems, alcohol or drug abuse when the appointments conflict with regular work schedules.
 - e. Attend to family members if Provider's attendance is required due to illness or disability of a member of the Provider's immediate family. Immediate family member for purposes of this contract are defined as a spouse, parent, child, sibling, mother or father-in-law, grandparent or grandchild, or any other person who is legally dependent upon the Provider.
 - f. Maternity Leave.
2. Provider may use accrued vacation leave if they have exhausted the accrued sick leave but must obtain approval from the Personnel Director and provide medical progress reports prior to approval of such payment.

E) Continuing Medical Education.

1. Training required by the Municipality of Skagway – When training is required by the Municipality, the Municipality will pay the cost of registration, tuition and publications, transportation, lodging and a per diem. The employee shall provide expense receipts to the Clinic Executive Director. The employee will receive compensation at their regular rate of pay while attending training sessions.
2. Provider shall have each year not more than 10 working days to obtain necessary medical education credits in order to maintain certification and licensure registration as an Advanced Nurse Practitioner, and for other certifications required by Dahl Memorial Clinic. Said days may be carried over to provide adequate time for education, no more than 20 total days (accumulative and new) available to the succeeding year. Such time shall not be deemed vacation leave and shall be treated as such upon termination. Clinic shall reimburse Provider up to four thousand dollars (\$4,000) of Provider's expenses in connection with such education. Provider shall present evidence of such expenses to employer in order to obtain reimbursement. If Provider incurs less than \$4,000.00 of reimbursement expense in one year, the balance remaining may be carried over to pay for expenses in the succeeding year. Provider shall not be entitled to any amount of such reimbursement upon termination. No personal leave may be paid for under CME time but must be kept separate on time-sheets if the personal leave and CME occur at the same time.

F) Licensing and Dues – Provider shall be entitled to reimbursement for Licensure for the State of Alaska and any dues required in maintaining licensure during the term of this contract.

6) INSURANCE

- A) Malpractice Insurance: Provider recognizes the importance of claim prevention and agrees to participate in and follow the risk management policies and procedures of the Clinic, the Clinic's current malpractice insurer, or any future malpractice insurer. For the period ending December 31, 2020, the Clinic is qualified for medical malpractice coverage under the Federal Torts Claims Act (FTCA). The Clinic does not represent or warrant that any or every claim against the Clinic will be covered by the FTCA or that the United States will agree to defend or indemnify the Clinic for any or every such claim. The Municipality is not providing separate or independent medical malpractice coverage for Provider.
- B) Provider recognizes the importance of claim prevention and agrees to participate in and follow the risk management policies and procedures of Clinic, Clinic's current malpractice insurer, or any future malpractice insurer.
1. Notification: Provider shall immediately notify the Borough Manager, upon becoming aware of the initiation or commencement of any of the following events with respect to the Provider, and shall periodically thereafter report to the Borough Manager, regarding the status of each such event:
 - a. Any malpractice claim or lawsuit which is threatened or filed against Provider;
 - b. Suspension, revocation, termination, or restriction of Provider license to practice medicine in Alaska;
 - c. The initiation of a disciplinary proceeding or inquiry before, or investigation by the Board of Medical Examiners for the State of Alaska or similar body.
 - d. Any investigation, sanction, or similar action by a peer review organization;
 - e. Any audit or similar proceeding by any federal, state, or local agency dealing with payment for medical services or any Medicare carrier or intermediary; or
 - f. Any criminal investigation or any civil investigation by any agency responsible for enforcement of health care related laws.

7) CONFIDENTIALITY

- A) Unless required to do so by law, Provider shall not either directly or indirectly divulge, disclose or communicate in any manner whatsoever to any person not employed or affiliated with the Clinic any confidential or proprietary information concerning any matters affecting or relating to the business or operations of future plans of the Clinic, or any of its subsidiaries or affiliates, and any confidential records regarding patient information, quality assurance, risk management and peer review activities. This prohibition extends to, but is not limited to, divulging such information for the purpose of acting as an expert witness, reviewer, or consultant on behalf of a plaintiff or an attorney acting on behalf of a plaintiff, in a claim or action against the Clinic, its subsidiaries or affiliates. The parties hereto stipulate that, as between them, such matters are important, material and confidential, and gravely affect the effective and successful conduct of the business of the Clinic, its subsidiaries and affiliates and the goodwill each maintains, and that any breach of the terms of this paragraph shall be a material breach of this Agreement.
- B) This confidentiality provision shall survive the termination of this Agreement, regardless of cause. The existence of any claim or cause of action against the Clinic by Provider whether predicated on this Agreement or otherwise, shall not constitute a defense to enforcement of this provision.

8) **RETURN OF CLINIC OR MUNICIPALITY PROPERTY**

- A) Upon termination of this Agreement for any reason whatsoever, Provider shall return to the Clinic all books, records, lists and other written, typed or printed materials, whether furnished by the Clinic or prepared by Provider, which contains any information related to the Clinic, its subsidiaries and affiliates, and it's or their business, activities, or existing or prospective customers or clients, and Provider shall neither make nor retain any copies of such materials after termination of this Agreement without the prior written consent of the Clinic Executive Director. The Executive Director shall not unreasonably withhold such content.
- B) Upon termination of this Agreement for any reason whatsoever, Provider shall immediately turn over to the Clinic Executive Director any laptop, tablet, cell phone, or any other similar electronic device provided to her for use in her employment, and all keys, and shall not delete or remove any content from any such electronic device before returning it to the Executive Director.

9) **NO OWNERSHIP INTEREST**

Provider acknowledges that her employment does not confer upon her any ownership interest in or personal claim to Clinic's business, including patients, medical charts or records, x-rays, or any electronic equipment provided for her use. Provider expressly agrees that the compensation and benefits received or payable to Provider is all the compensation due the Provider with respect to Provider services.

10) **REMEDY FOR BREACH**

The parties recognize that the services to be rendered by Provider hereunder will of necessity provide Provider with specialized knowledge of the Clinic, its subsidiaries and affiliates, and that the Clinic will be irreparably harmed in the event Provider were to use Provider's special skill, knowledge and talents and Provider's knowledge of the Clinic, its subsidiaries and affiliates, in competition with the Clinic, its subsidiaries and affiliates, in violation of this Agreement. In such event, the Clinic, without limitation as to other remedies that may be available, shall be entitled to institute and prosecute proceedings in law or in equity to enforce the specific performance hereof by Provider or to enjoin Provider from breaching the provisions hereof.

11) **ASSIGNMENT**

The services to be provided hereunder constitute personal service and therefore this Agreement shall not be assignable nor assigned whether individually or by operation of law by the Provider. The Municipality may assign the Agreement in the event the Municipality transfers ownership or operation or management of the Clinic to a private entity.

12) **COOPERATION REGARDING CLAIMS AND LITIGATION**

Provider shall fully cooperate in assisting the Clinic and its duly authorized agents, representatives, and attorneys, in investigating, defending or prosecuting incidents involving potential claims or lawsuits arising out of or in connection with the services provided under this Agreement. This paragraph shall be without prejudice to the prosecution of any claims which the Clinic may have against Provider and shall not require cooperation in the event of such claims.

13) **AGENCY**

Provider has no authority to impose or bind the Clinic or the Municipality to any obligation, duty, or act without the prior written consent of the Clinic or the Municipality.

14) **GOVERNING LAW**

This Agreement has been negotiated and executed in the State of Alaska and the laws of the State of Alaska shall govern the interpretation and construction of this Agreement. The Superior Court for the State of Alaska, First Judicial District at Juneau, Alaska, shall be the exclusive jurisdiction for any action of any kind and any nature arising out of or related in any way to this Agreement or arising out of or relating to the performance or non-performance of the Provider. Provider specifically agrees that venue for trial in any action shall be in Skagway, Alaska and the Provider specifically waives any right or opportunity to request a change of venue for trial pursuant to A.S. 22.10.040.

15) **SEVERABILITY**

Should any provision(s) of this Agreement be held invalid, unlawful or unenforceable, the validity of any other provision(s) of this Agreement or the Agreement as a whole shall not be affected.

16) **ENTIRE AGREEMENT: AMENDMENT**

This Agreement contains the final and entire agreement between the parties, and they shall not be bound by any terms, conditions, statements or representations, oral or written, not herein contained, or contained in a written amendment of this Agreement executed by the parties hereto. This Agreement may be amended only by written agreement executed by the parties. This Agreement supersedes any and all previous and existing agreements.

17) **HEADINGS**

Headings used in this Agreement are solely for the convenience of the parties and shall be given no effect in the construction or interpretation of this Agreement.

18) **WAIVER**

No waiver of any breach shall be valid or binding unless approved in writing by the non-breaching party. Forbearance or indulgence by the non-breaching party shall not constitute a waiver of the covenant or condition to be performed by the breaching party or of any remedy available to the non-breaching party. No waiver of any breach of this Agreement shall constitute or be deemed a waiver of any other or subsequent breach. All remedies afforded in this Agreement shall be taken and construed as cumulative to every other remedy provided hereby or at law.

19) **CHANGES IN LAW**

In the event there are changes to or clarification of federal, state or local statutes, regulations or rules, or any Medical Staff Bylaws, Rules and Regulations which would materially affect the operation of the Clinic, including but not limited to third party reimbursement or the tax-exempt status of the Clinic, the parties agree to fulfill their obligations under this Agreement in accordance with the changes in law,

regulations, rules, and bylaws.

20) NOTIFICATION

All notices to the Provider shall be sent via US Mail to:

Johanna Huff
PO Box 975
Skagway AK 99840

All notices to the Clinic shall be sent via US Mail to:

Dahl Memorial Clinic
Clinic Executive Director
P.O. Box 537
Skagway, AK 99840

21) ACKNOWLEDGEMENT OF REPRESENTATION:

Provider acknowledges that she has had a full opportunity to consult with attorneys of her choice before signing this Agreement. Provider acknowledges that she is not relying on any statements or representations made by the Clinic Executive Director, or any employees, representatives, officers, consultants, of the Clinic or the Municipality, or the Mayor, or Assembly members of the Borough, or any member of the Clinic Board, in entering this agreement, and she further acknowledges that she has not received and is not relying on any legal advice or representations by the Borough attorneys.

IN WITNESS WHEREOF, the Clinic and Provider have caused this Agreement to be executed in their respective behalf as of the date first above written.

WITNESS:

Municipality of Skagway
Dahl Memorial Clinic:

By: _____
Andrew Cremata, Mayor

Date: _____

WITNESS:

Provider:

By: _____
Johanna Huff, FNP

Date: _____